

PATENT COOPERATION TREATY

PCT/EP2003/012013

From the INTERNATIONAL BUREAU

W. K. L. Ten
US-Rothwell**PCT**

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II
OF THE PATENT COOPERATION TREATY)
(PCT Rule 72.2)

To:

POHL, Michael
Reitstötter, Kinzebach & Partner
Ludwigsplatz 4
67059 Ludwigshafen
ALLEMAGNE

Patente, Marken u. Lizenzen

20. Juni 2005

Eing. 16. Juni 2005

Ludwigsplatz 4, D-67059 Ludwigshafen

Date of mailing (day/month/year)
09 June 2005 (09.06.2005)

Applicant's or agent's file reference
M/43288-PCT

PF 54015

IMPORTANT NOTIFICATION

1. AST

International application No.
PCT/EP2003/012013 4

International filing date (day/month/year)
29 October 2003 (29.10.2003)

2. Ref

Applicant

BASF AKTIENGESELLSCHAFT et al

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

2. Transmittal of the copy of the translation to the elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

AZ, CA, CH, CN, CO, GH, KG, KP, KR, MK, MZ, RU, TM

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, BA, BB, BG, BR, BY, BZ, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GM, HR, HU, ID, IL, IN, IS, JP, KE, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MN, MW, MX, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, SC, SD, SE, SG, SK, SL, SY, TJ, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Ellen Moyse

Facsimile No.+41 22 740 14 35

Facsimile No.+41 22 338 89 75

Translation

PATENT COOPERATION TREATY

PCT/EP2003/012013



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference M/43288-PCT	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/012013	International filing date (day/month/year) 29 October 2003 (29.10.2003)	Priority date (day/month/year) 30 October 2002 (30.10.2002)
International Patent Classification (IPC) or national classification and IPC C07C 303/34		
Applicant BASF AKTIENGESELLSCHAFT		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.
<input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT). These annexes consist of a total of <u>9</u> sheets.
3. This report contains indications relating to the following items: <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input checked="" type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 03 May 2004 (03.05.2004)	Date of completion of this report 02 March 2005 (02.03.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

Form PCT/IPEA/409 (cover sheet) (July 1998)

BEST AVAILABLE COPY

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/012013

I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
pages _____ 1-68 _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☒ the claims:
pages _____, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages _____ 1-21 _____, filed with the letter of _____ 04 October 2004 (04.10.2004)
- ☐ the drawings:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☒ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/012013

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application.

☒ claims Nos. 18-21

because:

☐ the said international application, or the said claims Nos. _____
relate to the following subject matter which does not require an international preliminary examination (*specify*):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____
are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. _____ are so inadequately supported
by the description that no meaningful opinion could be formed.

☐ no international search report has been established for said claims Nos. _____

2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the standard.

☐ the computer readable form has not been furnished or does not comply with the standard.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/EP 03/12013

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-17	YES
	Claims		NO
Inventive step (IS)	Claims	1-17	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-17	YES
	Claims		NO

2. Citations and explanations

- D1: WO 01 83459 A (BASF AG) 8 November 2001 (2001-11-08), mentioned in the application
- D2: DATABASE CA [Online] CHEMICAL ABSTRACTS SERVICE, COLUMBUS, OHIO, US; BODRIKOV I.V. ET AL.: 'Adducts of nitriles with sulfur trioxide and their reactions' retrieved from STN Database accession no. 84:59407 CA XP002270931 & ZHURNAL ORGANICHESKOI KHIMII (1975), 11(10), 2217
- D3: DATABASE CROSSFIRE BEILSTEIN [Online] Beilstein. Institut zur Förderung der Chemischen Wissenschaften, Frankfurt am Main, DE; retrieved from XFIRE database accession no. brn 2309607 XP002270932 & J ORG CHEM USSR, Vol. 13, 1977, pages 390-394

- The amendments submitted with the letter of 1 January 2004 introduce substantive matter which, contrary to PCT Article 34(2)(b), goes beyond the disclosure of the international application as filed. The claims in question are claims 18 to 21. The compounds of formula (II) (claim 18) and (V) (claim 19) now claimed constitute a newly formed group of compounds which consists of a selection

from a plurality of lists of variables. Such a selection must be considered a new group of compounds, which is not disclosed in the originally filed application.

The compounds claimed in claims 18 and 19 cannot be considered to be disclosed on pages 10 to 12, but must be viewed as a new selection of compounds.

The subject matter of claims 18 and 19 and that of claims 20 and 21 goes beyond the disclosure of the international application as filed.

These claims cannot therefore be examined.

2. Claims 1 to 10 and 15 to 17 claim a method for producing phenyliso(thio)cyanates which are claimed in claims 11 to 14. These products are starting substances for producing plant protection agents.
3. None of the available documents describes such compounds. In particular D1, which can be considered the closest prior art, merely discloses the corresponding nitro- and amine derivatives, but not the phenyliso(thio)cyanates.
The subject matter of claims 11 to 14 and 1 to 10 and 15 to 17 can be considered novel over said prior art (PCT Article 33(2)).
4. With respect to D1, the basic problem can be considered the provision of phenyliso(thio)cyanates which can serve as starting substances for producing plant protection agents.
The proposed solution can be seen as the provision of phenyliso(thio)cyanates as per formulas (I) and (Ia) as per claims 11 to 14.
This solution is not suggested by the available

prior art. In particular, as per the comments made on page 2 of the description, owing to the absence of a further reactive group (sulfonamide group), the production of such phenyliso(thio)cyanates does not appear possible.

The subject matter of claims 11 to 14 and that of claims 1 to 10 and 15 to 17 thus involves an inventive step (PCT Article 33(3)).

5. Industrial applicability is acknowledged for all of claims 1 to 17 (PCT Article 33(4)).

BEST AVAILABLE COPY